

§ 270.3

32 CFR Ch. I (7–1–09 Edition)

§ 270.3 Effective date.

This part is effective on May 15, 1997.

Subpart B—Commission

§ 270.4 Membership.

The Secretary shall establish within OSD a Commission that is composed of the following voting members: one representative from the Office of the Under Secretary of Defense for Personnel and Readiness, who shall be the chairman of the Commission, one representative from the Office of the Under Secretary of Defense for Policy, and one representative from each of the military departments. Members of the Commission may be either military or civilian and all members must possess, at a minimum, a Secret clearance.

§ 270.5 Staff.

(a) The Commission will have a support staff, which will include staff members sufficient to expeditiously and efficiently process the applications for payments under this part. All members of the staff will possess, as a minimum, a Top Secret clearance because of the sensitive nature of the information that may require review in determining eligibility of claimants.

(b) The Secretary will ensure that the Commission has all administrative support, including space, office and automated equipment and translation services, needed for the efficient and expeditious review and payment of claims. The Secretary may task appropriate Department of Defense elements to provide such support, either through assignment of personnel or the hiring of independent contractors.

Subpart C—Standards and Verification of Eligibility

§ 270.6 Standards of eligibility.

(a) A person is eligible for payments under this part if such person:

(1) Was captured and incarcerated by North Vietnam as a result of his participation in operations conducted under OPLAN 34A or its predecessor operation; or

(2) Served as a Vietnamese operative under OP 35, and was captured and in-

carcerated by North Vietnamese forces as a result of the participation by the person in operations in Laos or along the Lao-Vietnamese border pursuant to OP 35, and

(i) Was captured and incarcerated by the North Vietnamese, and remained in captivity after 1973 (or died in captivity) after participation in OP 35, and

(ii) Has not previously received payment for the United States Government after 1972 from the period spent in captivity.

(b) In the case of a decedent who would have been eligible for a payment under this part if alive, payment will be made to the survivors of the decedent in the following order:

(1) To the surviving spouse of an eligible person; or

(2) If there is no surviving spouse of an eligible person, to the surviving children of an eligible person, in equal shares; or

(3) If there is no surviving spouse of an eligible person and no surviving children of an eligible person, to the surviving parents of an eligible person, in equal shares (step parents take equal shares the same as natural parents); or

(4) If there is no surviving spouse of an eligible person, no surviving children of an eligible person, and no surviving parents of an eligible person, to the surviving siblings of an eligible person, in equal shares. (Half siblings take equal shares in the same manner as full siblings.)

(c) A payment may not be made under this part to, or with respect to, a person who the Commission determines, based on the available evidence, served in the People's Army of North Vietnam or provided active assistance to the Government of North Vietnam or forces opposed to the Government of South Vietnam or the United States during any period from 1958 through 1975.

(d) The Commission will make reasonable efforts to publicize the availability of payments involved in this procedure, using existing public affairs channels.

[63 FR 3472, Jan. 23, 1998, as amended at 63 FR 68195, Dec. 10, 1998]